No. 88-2041

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

IN THE MATTER OF:
The Complaint of EVERETT A. SISSON, as owner of the motor yacht the ULTORIAN, for exoneration from or limitation of liability,

EVERETT A. SISSON,
Petitioner,

v.

BURTON B. RUBY, FIREMAN'S FUND INSURANCE COMPANY, and PORT AUTHORITY OF MICHIGAN CITY, Claimants,
Respondents.

On Writ Of Certiorari To The United States Court of Appeals For The Seventh Circuit

REPLY BRIEF ON THE MERITS BY PETITIONER EVERETT A. SISSON

Of Counsel:

DENNIS MINICHELLO
KECK, MAHIN & CATE
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-3400

WARREN J. MARWEDEL
Counsel of Record
KECK, MAHIN & CATE
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-3400

Attorneys for Petitioner

Midwest Law Printing Co., Chicago 60611, (312) 321-0220

TABLE OF CONTENTS

TABLE OF AUTHORITIES

No. 88-2041

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

IN THE MATTER OF:
The Complaint of EVERETT A. SISSON, as owner of the motor yacht the ULTORIAN, for exoneration from or limitation of liability,

EVERETT A. SISSON,

Petitioner,

v.

BURTON B. RUBY, FIREMAN'S FUND INSURANCE COMPANY, and PORT AUTHORITY OF MICHIGAN CITY, Claimants,

Respondents.

On Writ Of Certiorari To The United States Court of Appeals For The Seventh Circuit

---

REPLY BRIEF ON THE MERITS BY PETITIONER EVERETT A. SISSON

I.

THIS COURT'S DECISION IN *RICHARDSON v. HARMON* IS CONSISTENT WITH ALL PREVIOUS AND SUBSEQUENT DECISIONS REGARDING ADMIRALTY AND MARITIME JURISDICTION. TO REVERSE IT NOW WOULD UNJUSTIFIABLY DENY THE OPPORTUNITY FOR LIMITATION IN SITUATIONS INVOLVING NON-MARITIME TORTS.

Amicus United States argues (Am. Brief, 1-17) that *Richardson v. Harmon*, 222 U.S. 96 (1911), represented a significant departure from prior decisions of this Court by holding the Limitation of Liability Act, 46 U.S.C. § 181 *et seq.*, applicable to a non-maritime tort, an area beyond the "matters and places to which the maritime law extends." (Am. Brief, 17). We submit that this argument (a) insufficiently appreciates the import of those prior decisions, both individually and as related to one another, and (b) does not adequately take into account that the "limits" of maritime tort jurisdiction were both "territorial" (occurring on navigable waters) and "non-territorial", in the sense that certain occurrences on navigable waters (e.g., death) did not fall within admiralty jurisdiction.

The first important case considering the Limitation Act, *Norwich Co. v. Wright*, 80 U.S. (13 Wall.) 104 (1872), pointed out:

> . . . the state courts have not the requisite jurisdiction. Unless, therefore, the district courts themselves can administer the law, we are reduced to the dilemma of inferring that the legislature has passed a law which is incapable of execution. This is never to be done if it can be avoided . . .

Id., at 123-124. The Court, thereafter, prescribed rules to apply to limitation proceedings in the district courts.

In *Ex parte Phenix Ins. Co.*, 118 U.S. 610 (1886), the owner of a steamer sought to limit its liability for multiple claims arising from a fire caused by sparks from the steamer's smoke stack when the fire occurred on land. The Court examined the Limitation Act in detail (quoting its pertinent sections in full) and concluded that it did not purport to confer any jurisdiction upon a district court (*Id.*, at 617). The Court then reviewed the material Supplementary Rules in Admiralty (quoting them in full), and concluded that nothing in them purported to enlarge the jurisdiction of the district courts as to subject matter (*Id.*, at 623, 624, 625). The Court expressly reserved the question whether the statutory limitation of liability extended to the non-maritime torts, i.e., the fire damages in question (*Id.*, at 625). That is, it refused to hold that, under the language of the original 1851 statute, damage sustained beyond the "territorial limit" of maritime jurisdiction was not subject to shipowner's limitation of liability. The reasonable inference from all of the foregoing is that if the Court has ascertained that the statute or the rules specifically conferred (enlarged) jurisdiction on the district court, it would have held that jurisdiction existed. The formalistic *Phenix* decision seems to have disregarded the *Norwich* Court's conclusion, *supra*, foreclosing the possibility of state court jurisdiction (Am. U.S. Brief, 14, fn. 9). Thus, clearly inconsistently with *Norwich*, *Phenix* effectively (and, we submit, wrongly) denied a shipowner's right to seek limitation for non-maritime torts, although inflicted by a steamer on navigable waters.

In *Butler v. Boston & Savannah S.S. Co.*, 130 U.S. 527 (1889) the Court again was called upon to interpret the Act of 1851, and it did so by stating that the Act could be applied to limit a claim under a state wrongful death statute arising from the sinking in a navigable water.

However, this Court also left open the question as to the interpretation of the Act, as amended in 1884, and the specific meaning of the language "all debts and liabilities" as found in 46 U.S.C. § 189.

> The language is somewhat vague, it is true; but it is possible that it was intended to remove all doubts of the application of the limited liability law to all cases of loss and injury causes with the privity or knowledge of the owner. But it is unnecessary to decide this point in the present case. The pendency of the proceedings in the limited liability clause was a sufficient answer to the liability of the appellant.

Id. at 554.

Butler emphasized that the law of limited liability is coextensive with the whole territorial domain of the maritime law and is subject to such amendments as Congress may see fit to adopt, within limits which are matters of judicial cognizance, citing *The Steamer St. Lawrence*, 66 U.S. (1 Black) 522 (1862). (*Id.*, at 555, 556-7.) In *St. Lawrence*, at 526-527, the Court adverted to the difficulties it had experienced in not being able to fix such limits with precision.

However, the most significant point in *Butler* was the holding that limitation of liability applied to a death claim that may have arisen under state law, although the general maritime law gave no report of recovery for such a claim. That is, solely by virtue of the limitation statute, the admiralty court was enabled to exercise jurisdiction over a case then considered outside the "non-territorial" limit of the law.

In *In re Garnett*, 141 U.S. 1 (1891) this Court decided that the 1884 amendment, extending jurisdiction to inland waters, was constitutional.

In *The Hamilton*, 207 U.S. 398 (1907), the Court held that by virtue of the limitation statute the shipowner was able to transfer its liability for a death claim not recoverable under general maritime law to the limitation fund and the exclusive jurisdiction of the admiralty court, (*Id.*, at 405-6), another clear instance of going outside the "non-territorial" limit of admiralty jurisdiction.

Amicus United States (Am. Brief, 15-16, fn. 10) makes an extended argument that it was not clear that state wrongful death claims were outside the general maritime jurisdiction. But that is beside the point. *Butler* and *Hamilton* held that death claims, even if non-maritime (then not recoverable under general maritime law) were subject to application of the Limitation Act, and, therefore came within admiralty and maritime jurisdiction in the limitation proceedings.

In *Richardson*, this Court was finally called upon to interpret the language "any and all debts and liabilities" contained in the amendment of 1884, in the context of a non-maritime tort. This Court noted that the *Butler* decision had left that question unanswered, and that the decision in *Ex parte Phenix* related to a liability preceding the 1884 amendment. This Court correctly held that the Limitation of Liability Act ". . . was intended to add to the enumerated claims of the old law 'any and all debts and liabilities' not therefore included . . ." (*Id.*, at 105) and would cover all claims arising out of the conduct of the master and crew whether the liability be strictly maritime or for a tort non-maritime. This Court has never departed from this interpretation. See, e.g., *Just v. Chambers*, 312 U.S. 383, 386 (1941); *Detroit Trust Co. v. The Thomas Barlum*, 293 U.S. 21, 44-45 (1934); *Hartford Acci. & Indem. Co. v. Southern Pac. Co.*, 273 U.S. 207, 217 (1927).

Richardson was, therefore, consistent with *Norwich*, *Butler*, and *Hamilton*, its only novelty being a marginal enlargement of the "*territorial*," rather than the "non-territorial," limit of admiralty jurisdiction in a case involving a vessel on navigable waters.

It is a curious circumstance that *Richardson chiefly* addresses a proposition never made in *Phenix*, namely that the 1851 statute embraced liabilities for only maritime torts. In doing so, *Richardson* concluded that the 1884 amendment expanded the types of liabilities as to which a shipowner could seek limitation. At the same time, *Richardson* paid no heed to *Phenix's* concern with the lack of explicit jurisdictional reference to the district court in the statute or admiralty rules. While this approach seems unusual, we submit that *Richardson* is consistent with *Norwich*, *Butler*, and *Hamilton* in concluding that a shipowner could seek limitation:

> . . . in respect of claims arising out of the conduct of the master and crew, whether the liability be strictly maritime or from a tort non-maritime.

Id., at 106. It is, we submit, *Phenix* that is inconsistent with that line of cases.

Amicus Hatteras argues (Hat. Brief, 10) that the *Richardson* court did not state the case in jurisdictional terms and did not conclude that the Limitation Act provided an independent jurisdictional basis. However, that is precisely what the Court did. In the district court, the owner of the bridge had excepted to the jurisdiction of the court and his exception had been sustained. *Richardson* at 101. This Court disposed of the case in these terms:

> If thus the owner's liability for a tort permitted or incurred through the master or crew, although non-maritime because due to a collision between the ship

> and a structure upon land, be one in respect to which his liability is limited, and he applies for the benefit of such limitation to the proper District Court of the United States, "all proceedings," by the express terms of § 4285, Revised Statutes, "against the owner shall cease." The procedure in any such case is prescribed by the 54th and 66th rules in admiralty, where it is said that the court shall, "on application of the said owner or owners, make an order to restrain the further prosecution of all and any suit or suits against said owner or owners in respect of any such claim or claims."

Id., at 106. The district court decree sustaining the exception to jurisdiction was reversed.

Thus, in the context of the limitation proceeding, this Court clearly concluded in *Richardson* that there was admiralty jurisdiction over the non-maritime tort claim there involved.[1]

Respondents Amicus argue from the wording of 46 U.S.C. § 185 that the statute's language, ". . . may petition a district court of the United States *of competent jurisdiction* for limitation of liability . . ." (emphasis added), indicates

[1] There is an alternative ground for supporting the result of the *Richardson* decision. The original 1851 statute afforded limitation of liability in very broad terms ". . . for any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of such owner . . ." *Phenix*, *supra*, at 616-17. It is difficult to see that this language excluded non-maritime torts. As we have seen, *supra*, the *Phenix* court declined to so hold. *Butler*, *supra*, at 550, said of this statute, ". . . nothing can be more general or broad than its terms." A leading text has similarly commented. G. Gilmore & C. Black, *The Law of Admiralty*, (2d Ed. 1975) at 666. We submit that, if *Richardson* is thought to need reconsideration, that language of the original 1851 statute should also be addressed.

that jurisdiction must be derived from some other source (United States Brief, 26 fn. 20; Hat. Brief, 7). As to that argument, we would make a number of points. The phrase "of competent jurisdiction" more logically indicates that of the district courts in the United States only one or a few, would be of competent jurisdiction. For example, although, strictly speaking, relating to venue, Rule F(9) of the Supplemental Rules for Certain Admiralty and Maritime Claims requires that the limitation complaint be filed in certain districts depending on such things as whether the vessel has been arrested in the district, the owner sued in the district, etc. If venue is wrongly laid, the court has the option under Rule F(9) of dismissing the complaint, so in that sense venue may well be jurisdictional. In a similar vein, if the shipowner fails to file a limitation complaint within six months of receiving its first written notice of a claim, the court would be without jurisdiction and must dismiss the complaint. *The Maine*, 28 F.Supp. 678 (D. Md. 1939), *aff'd. sub nom. Standard Wholesale P. & A. Works v. Travelers Ins. Co.*, 107 F.2d 373 (4 Cir. 1939), the court stating ". . . where a condition precedent to a right to invoke the benefits of the statute has not been met, the admiralty court is without jurisdiction . . ." (*Id.*, at 582). Moreover, we submit that if Congress had wished to exclude non-maritime tort claims from application of the limitation of liability statutes, it would have done so explicitly, rather than by ambiguous implication. This is particularly true because at the time the statute was amended (1936) *Richardson* had been the law for some 25 years.

Clearly, in *Richardson* this Court was doing nothing more than interpreting, for the first time, the clear and unambiguous language of the Limitation of Liability Act, as amended in 1884. This conclusion is supported by the

fact that, two weeks after that decision, this Court rendered its decision in *Martin v. West*, 222 U.S. 191 (1911). *Martin* involved almost the identical fact pattern presented in *Richardson* with the exception that, in *Martin*, the railroad had instituted suit against the vessel owner pursuant to admiralty and maritime jurisdiction for injuries done to its shoreside property. *Martin* did not involve the Limitation of Liability Act as the case was brought within the general maritime jurisdiction of this Court. There, this Court held that the maritime jurisdiction of the federal courts did not extend to cover losses occurring on land, even if the cause of the loss originated on a navigable waterway.

Reading *Richardson* and *Martin* together, it is clear that, but for the all inclusive language of the Limitation of Liability Act as amended in 1884, there would be no general admiralty jurisdiction to cover non-maritime torts. *Richardson* must be read as a case which interpreted the specific language of the Limitation of Liability Act. *Richardson* and *Martin* created a one-way jurisdictional channel.

Both the Respondents and the United States have chosen to totally ignore this Court's decision in *Martin v. West*, and have treated *Richardson* as if it existed in a vacuum unconnected with prior and subsequent decisions. Without discussing the significance of *Martin* it is impossible to fully understand the significance of the decision in *Richardson*, and results in the wrong conclusion.

Moreover, the omission of a discussion of *Martin v. West* could lead to the conclusion that the Extension of Admiralty Jurisdiction Act 46 U.S.C. § 740 was enacted in 1948 to cover the injuries involved in the *Richardson* case. However, this Court has recognized that the Extension

of Admiralty Jurisdiction Act was passed, in part, to remedy the inequities of cases such as *Martin v. West*. *Victory Carriers, Inc. v. Law*, 404 U.S. 202, 209 and n. 8 (1971), *reh. den. Victory Carriers, Inc. v. Law*, 404 U.S. 1064 (1972), and *Executive Jet Aviation, Inc. v. Cleveland*, 409 U.S. 249, 260 (1972).

The Extension Act, was enacted, in part, to afford shoreside interests the same opportunity to bring suits in admiralty as was available to vessel owners under the Limitation Act. The Extension Act harmonized the availability of admiralty jurisdiction for all parties beyond the traditional scope of admiralty tort jurisdiction. We now have a two-way channel for jurisdiction. To reconsider *Richardson*, may recreate a one-way channel in the opposite direction.

Finally, to argue that the Limitation of Liability Act derives its jurisdiction from the general maritime law ignores the historical fact that Congress enacted the original Act to provide a rule which "had never been adopted in this country, until it was enacted by statute." *In re Garnett, supra* at 13.

> But while the rule adopted by congress is the same as the rule of the general maritime law, its efficacy as a rule depends upon the statute and not upon any inherent force of the maritime law.

The Scotland, 105 U.S. 24, 29 (1882).

The Act cannot logically be interpreted to be limited by the very law it was intended to enlarge.

II.

THE INTERPRETATION OF *RICHARDSON v. HARMON* SUGGESTED BY THE RESPONDENTS AND THE UNITED STATES WILL UPSET THE LEGISLATIVE INTENT OF CONGRESS.

This Court has long recognized that Congress has the power to extend admiralty jurisdiction. Congress has chosen to do so in the Extension of Admiralty Jurisdiction Act, 46 U.S.C. § 740 and in the Limitation of Liability Act, 46 U.S.C. § 181 *et seq.* as interpreted by *Richardson*. The intent of Congress in extending admiralty jurisdiction in those two acts should not be altered or restricted in any manner inconsistent with the statutory language. The reasoning of the Respondents and the United States would result in such a restriction.

The Extension of Admiralty Jurisdiction Act has extended admiralty jurisdiction "to and include all cases of damage or injury to person or property caused by a vessel on a navigable water". The only requirements for admiralty jurisdiction pursuant to this statute are that there be an injury to person or property caused by a vessel on a navigable water. Congress did not require that there be a nexus to a "traditional maritime activity". There is no support under the plain language of the statute to suggest that "traditional maritime activity" be a requirement for maritime jurisdiction under the Act.

The Limitation of Liability Act provides the owner of a vessel with the opportunity to limit his liability for "any or all debts and liabilities". The only requirements under the Act are that there be a vessel and the liabilities must exceed the value of the owner's interest in the vessel. There is no requirement in the statutory scheme for the nexus to a "traditional maritime activity". The Act would

be available to cover "all debts and liabilities" such as liens, property claims, personal injuries, salvage expenses, and any other liability which may arise. Requiring that there be a nexus to a "traditional maritime activity" would restrict the broad application of the Act and defeat the protection afforded to vessel owners by Congress.

III.

LIMITATION OF LIABILITY AND ADMIRALTY JURISDICTION FOR PLEASURE CRAFT DO HAVE A COMMERCIAL NEXUS, ALTHOUGH NONE IS REQUIRED.

Respondents argue that pleasure craft claims are nothing more than a "garden variety" state court tort that will clog the federal courts and severely curtail access to state courts. Petitioner believes this argument is not well-founded.

While it is true that the number of pleasure craft have increased manyfold, they have produced only very few cases in the federal court system. Most of the reported yacht cases dealing with jurisdiction have been cited in the various briefs, and do not number more than a couple of dozen cases. Like cargo claims, the vast majority of yacht claims are relatively small and are resolved outside of litigation or in the state court system.

The argument that a weekend sailor may limit his liability, "when his negligence causes personal injury or property damage" (Resp. Brief, 13) is without merit. A plain reading of the statute shows that if the owner of the boat is negligent, he may not limit. The Limitation of Liability Act provides for a concursus to bring all claims into one forum, and then requires the owner of the vessel to affirmatively establish his lack of privity and knowledge of the proximate cause of the accident. If the owner is

operating the vessel at the time of the accident, or is otherwise responsible by his own acts for the proximate cause of the accident, he most likely will not be able to limit. It is not unlike the owner of an automobile who lends it to another, and it is involved in an accident. The owner of the car is not responsible unless the plaintiff could establish that the owner negligently entrusted the car to the driver. If, however, the owner of the car is operating it at the time of the accident, or had negligently repaired the car, the owner may be found liable.

Citing examples of rowboats and personal floatation devices does not relate to the true nature of the dispute before this Court. At 54 feet, the M/V ULTORIAN is the size of many vessels such as tugs, supply boats, and sightseeing boats. As Respondents' own statistics show, pleasure craft have become big business. They are built in United States' yards and oversees; they are bought and sold throughout the country; they are insured, serviced, maintained and docked; they literally move in the streams of commerce; and, most importantly, they carry people. They are a means of transport on the water. The owner of a boat, often referred to as a hole in the water into which one pours all of his money, spends money to be transported on the water, just as the passenger does on the sight-seeing boat or cruise ship. Recreation is big business in this country, and no less important to the economy, and its commercial interests, than cargo moving on the water. Do we really have commerce here after all? Does it matter? Many vessels today never existed when the admiralty tort jurisdiction was first defined, and the Court should not wrap jurisdiction up in the canvas shroud of sailing ships past.

Most of the arguments of Respondents basically say that limitation of liability is bad, and that being in federal court

will somehow deprive Respondents of their state court remedies. It is interesting to note that following the dismissal of this action by the district court, the Respondents filed a new action in federal court on the diversity side, alleging basically the same arguments found in their claim in limitation.

The only real issue present in this case is Respondents' desire to avoid the "possible" results of a limitation of liability proceeding. The arguments on admiralty jurisdiction are designed to reduce or restrict admiralty jurisdiction, even though it has been expanded by Congress in the Limitation of Liability Act and the Extension of Admiralty Jurisdiction Act. While many commentators and courts have criticized the Limitation of Liability Act, it nonetheless remains the law. The Act covers *all* liabilities for seagoing vessels and to all vessels used on lakes, rivers or inland navigation. The statute should be given the plain meaning of its words, not a restricted Orwellian meaning. "All" means all.

It is submitted that the Extension of Admiralty Jurisdiction Act properly codifies the basis for general admiralty jurisdiction.

IV.

THE SISSON TEST FOR ADMIRALTY TORT JURISDICTION IS IN CONFORMANCE WITH THE EXTENSION OF ADMIRALTY JURISDICTION ACT AND THE LIMITATION OF LIABILITY ACT.

The Petitioner's test for general admiralty jurisdiction is simple and consistent. It respects legislative intent and the historic development of admiralty jurisdiction. It reconciles the general admiralty law with Limitation of Liability, the Extension Act, *Richardson v. Harmon*, *Martin v. West*, *Executive Jet*, and *Foremost Insurance Co. v.*

Richardson, 457 U.S. 668, *reh. den. Foremost Ins. Co. v. Richardson*, 459 U.S. 899 (1982). It simply requires a vessel, as commonly understood, or as described in the statutes, and a navigable water. This test answers the problem found in *Executive Jet Aviation*, *supra*, and eliminates the nexus problem that has so plagued the courts. The *Executive Jet* airplane is not a vessel, unless it is a seaplane operating on the water as a vessel, and, therefore, it is not subject to admiralty jurisdiction. Congress may, of course, turn a duck into a swan, as it did on the Death on the High Seas Act applying to aircraft, and that legislative prerogative was specifically recognized in *Executive Jet*.

It is submitted that the Extension Act, passed in 1948, merely codified the commonly accepted approach to admiralty jurisdiction when it required a vessel on a navigable waterway. While it has been interpreted to have been passed to correct the inequities found in *Martin v. West*, the plain reading of the statute extends the admiralty jurisdiction to *all* vessels in navigable waters. The phrase "notwithstanding that such damage or injury be done or consummated on land" should not be read to restrict the Extension Act to just those situations. The Act defines admiralty jurisdiction and clarifies that it even extends to damage or injury on the land. No nexus is referred to or implied, nor should this Court graft on such a limitation.

Furthermore, if it is argued that limitation of liability is not available unless the claimant could file in admiralty, then the Extension Act settles the question once and for all. In this case, the other yachts could have claimed in admiralty under the general admiralty jurisdiction, and the Port Authority could claim under the Extension Act. Therefore, the owner of the M/V ULTORIAN should be entitled to seek limitation.

It is, therefore, submitted that *Richardson v. Harmon* should not be reconsidered, that admiralty tort jurisdiction should be based on the presence of a vessel on the navigable waterway, and that both the Limitation of Liability Act and the Extension Act provide a separate basis for jurisdiction. This will require a change in the nexus requirement first outlined in *Executive Jet* and *Foremost*, that has caused so much confusion and judicial scrutiny. Congress has eliminated the confusion by focusing on a vessel and navigable water. The Sisson test is not the old situs test, which would have given jurisdiction in *Executive Jet*, but a test that meets the needs of maritime jurisdiction and the requirements of Congress.

CONCLUSION

In summary, there is admiralty jurisdiction for the M/V ULTORIAN under all jurisdictional approaches.

1. General Admiralty Tort Jurisdiction
   a. The M/V ULTORIAN is a vessel.
   b. The M/V ULTORIAN was on a navigable waterway.
   c. A nexus should not be required, but if one is, the M/V ULTORIAN was interactive with commerce, docking is a maritime operation as well as maintenance and cleaning. and limitation of liability is a matter of federal admiralty concern.
2. The Limitation of Liability Act
   a. The M/V ULTORIAN is a vessel.
   b. The M/V ULTORIAN was on the water.
   c. The Act provides for an independent basis for jurisdiction.
   d. No nexus is required.
   e. The Act covers all liabilities.

3. Extension of Admiralty Jurisdiction Act
   a. M/V ULTORIAN is a vessel.
   b. M/V ULTORIAN was on a navigable waterway.
   c. Property damage to floating vessels and floating dock.
   d. No nexus is required.

The Petitioner urges this Court to reject the restrictive interpretation of *Foremost* by the Seventh Circuit Court of Appeals and reverse its opinion. The grant of admiralty and maritime jurisdiction should be broadly construed so as to include torts or wrongs occurring on navigable waterways involving watercraft or artificial contrivances which are used or capable of being used for transportation on water. Only in this fashion will there be a uniform maritime law applicable to all vessels whether operating in commerce or for pleasure.

The Petitioner also urges this Court to uphold the majority view and find that the Limitation of Liability Act is available to recreational craft and provides a separate and independent basis for admiralty jurisdiction. In this regard, *Richardson v. Harmon* should not be reconsidered, but viewed as a correct interpretation of the statutory language in the amendment to the Limitation of Liability Act to include all liabilities of "all vessels". *Richardson* also found that the Limitation of Liability Act afforded a separate and independent basis for jurisdiction.

Respectfully submitted,

Of Counsel:

DENNIS MINICHELLO
KECK, MAHIN & CATE
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-3400

WARREN J. MARWEDEL
Counsel of Record
KECK, MAHIN & CATE
8300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-3400

Attorneys for Petitioner